

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company (U 904 G) for Authority to Revise Its Rates Effective January 1, 2003 in Its Biennial Cost Allocation Proceeding.

Application 01-09-024

In the Matter of the Application of San Diego Gas & Electric Company (902-G) for Authority to Revise Its Gas Rates Effective January 1, 2003 in Its Biennial Cost Allocation Proceeding.

Application 01-10-005

**ADMINISTRATIVE LAW JUDGE'S RULING GRANTING
MOTION OF THE OFFICE OF RATEPAYER ADVOCATES
MOTION TO DEFER THE BCAP PROCEEDINGS FOR 12 MONTHS**

Summary

This ruling grants the motion of the Office of Ratepayer Advocates (ORA) to Suspend the Procedural Schedule and to Defer the Biennial Cost Allocation Proceedings (BCAP) for a Period of 12 Months. Southern California Gas Company (SoCalGas) is ordered to file an amended BCAP application on March 3, 2003, and San Diego Gas & Electric Company (SDG&E) is ordered to file an amended application on March 17, 2003. No further requests for extensions will be granted.

Background

SoCalGas and SDG&E filed their BCAP applications on September 21, 2001, and October 5, 2001, respectively. Both applications included rates based on

long-run marginal cost (LRMC), but proposed that the Commission return to embedded cost ratemaking. SoCalGas and SDG&E filed amended applications, November 13, 2001, and November 21, 2001, respectively, to present rates resulting from an embedded cost approach to cost allocation.

On December 4, 2001, an initial Prehearing Conference (PHC) was held and the procedural schedule proposed by the parties was adopted. On December 11, 2001, the Commission issued Decision (D.) 01-12-018 approving the Comprehensive Settlement Agreement in Investigation (OII.) 99-07-003, the Gas Industry

Restructuring (GIR) proceeding. The GIR significantly alters the market structure for gas transportation and storage services in southern California by unbundling transmission and storage costs. Both utilities told the Commission that the GIR would require them to file revised BCAP applications.

On December 3, 2001, the Electric Generator Alliance (EGA) filed a motion to strike the embedded cost proposals of SoCalGas and SDG&E. A hearing on EGA's motion was scheduled for January 10, 2002. On December 28, 2001, ORA filed a motion to suspend the procedural schedule adopted at the December 4, 2001, PHC on the ground that since the utilities would be filing revised applications, ORA needed more time to respond than the initial procedural schedule allowed.

At the January 10, 2002, hearing on EGA's motion, SoCalGas was ordered to file its revised application by March 4, 2002, and SDG&E to file its revised application by March 18, 2002. The parties were ordered to meet and confer to develop a revised procedural schedule. ORA's motion to suspend the original schedule was granted, and a new schedule was adopted with evidentiary hearings scheduled for August and September 2002, and ORA's testimony due June 14, 2002.

On March 19, 2002, ORA filed this instant Motion to Suspend the Procedural Schedule and to Defer the Biennial Cost Allocation Proceedings for a Period of 12 months. Responses were received on April 3, 2002, from The California Industrial Group and the California Manufacturers & Technology Association (CIG/CMTA); EGA; SoCalGas and SDG&E; Southern California Generation Coalition (SCGC); California Cogeneration Council (CCC); and Watson Cogeneration Company (Watson). ORA filed a reply on April 9, 2002.

Discussion

ORA proposes suspending the current procedural schedule and deferring the BCAP proceedings for 12 months because ORA does not have the staff and resources available at this time to allow it to participate in a meaningful manner in the proceedings. Traditionally, ORA scrutinizes the utilities' BCAP applications to ensure that the utilities make a complete showing in the applications including throughput forecasts, cost allocation, and rates.

ORA is currently reviewing GRC applications filed by Southern California Edison Company (Edison) and Southwest Gas Company (Southwest). PG&E intends to file its NOI for a 2003 test year in mid-April, 2002. ORA also expects to process over 20 water company GRCs in the near future. ORA is concerned that its participation in all these proceedings will not allow ORA to perform a thorough review of these BCAP applications.

ORA also suggests that deferring the BCAP applications for a year will allow the Commission to implement the GIR on the SoCalGas system. Once the new regulatory structure is in place and the parties are familiar with it, ORA is optimistic that the BCAP proceeding can be less controversial.

ORA proposes preserving the status quo with respect to cost allocation and rates, and handling balancing account imbalance corrections by way of advice letters.

Responses

CIG/CMTA do not oppose ORA's motion. Their only concern is that SoCalGas is presently over-collecting its Interstate Transition Cost Surcharge (ITCS). CIG/CMTA urges the Commission to require SoCalGas to adjust its ITCS charge to avoid accumulating a large over-recovery.

CCC does not oppose ORA's motion. CCC believes ORA's full participation in the BCAP is essential, and if ORA cannot fully participate under the current schedule, the proceeding should be deferred.

EGA also does not oppose ORA's request to defer the BCAP proceedings. EGA is sympathetic to ORA's staffing and resource limitations. Because SoCalGas and SDG&E are proposing to switch from the LRMC methodology to an embedded cost methodology, ORA will need the time to analyze and respond to both methodologies. EGA appreciates the thorough analysis ORA makes of the utilities' applications and EGA, and the other intervenors, depend on ORA to develop a record. EGA also agrees with ORA that postponing the proceeding for 12 months will allow for the GIR to be implemented. EGA, however, does have some reservations about ORA's prioritization of the GRCs and water proceedings over the BCAPs, and is concerned about the amount of money in the balancing accounts.

SCGC supports a limited deferral of the BCAP proceedings, but is concerned that if the requested 12-month extension is given that the utilities will be on "regulatory auto-pilot." SCGC is particularly sensitive to ORA's role in the GRCs because SCGC, as well as other parties, look to ORA as the "first line of

defense” for a thorough review of a utility's revenue requirement. SCGC supports some time extension, but opines that four months should be enough. SCGC notes that this is the fourth extension requested by ORA in this proceeding, all because of staffing constraints. SCGC suggests that ORA address its staffing problems by adding staff or hiring consultants.

Watson opposes ORA’s motion. Watson is concerned that any further delay will be prejudicial. Even if there is no delay, the earliest a decision would issue in the current proceedings is early 2003. These are the first BCAP applications to be litigated since the energy crisis of 2000-2001 and gas transportation rates need to be revised. Watson identifies a number of key ratemaking issues—elimination of the Sempra-wide rate for electric generators; elimination of the 75% balancing account protection for noncore local transmission and distribution costs; and a new estimate for gas throughput—that are affected by the energy crisis and Watson wants the Commission to review these issues as soon as possible. While Watson understands ORA’s staffing limitations, Watson suggests that the BCAP proceeding could be simplified, and covered by ORA, by either removing the embedded-cost methodology from this proceeding, or deferring it to a Phase II.

SoCalGas and SDG&E “strongly oppose the motion as both: (1) unreasonable and untimely, and (2) contrary to the interests of the Utilities and their customers, and in contravention of fundamental principles of utility ratemaking.” As an alternative, the utilities ask that if ORA’s request is granted, that it be done on terms that ensure that no party is harmed from the delay. Specifically, the Commission should require 100% balancing of noncore revenue risk for SoCalGas. SoCalGas requests this because the Joint Recommendation adopted in D.00-04-060, the last BCAP proceeding, established a 75/25

(ratepayer/shareholder) balancing of noncore through-put revenue risk, that was to terminate on December 31, 2002.

SoCalGas and SDG&E, echoing SCGC, remind the Commission that the schedule for the proceeding—even before the initial applications were filed—was determined in large measure by ORA's resource constraints. The schedule was designed, reconfigured, and redesigned again, to accommodate ORA. As the utilities point out, granting a 12-month extension essentially eliminates the 2003 BCAP. Customers will be denied the opportunity to have their rates adjusted for 2003 and 2004 to reflect cost allocations and rate designs predicated on current conditions.

In response to ORA's allegation that it makes sense to implement the GIR prior to litigating this BCAP, the utilities remind the Commission that the revised [Second Amended] applications just filed in March 2002, identify the impacts of the GIR. In fact, the GIR, since it eliminates for SoCalGas a number of issues related to transmission and storage, actually narrows the scope of the BCAP.

In addition, the utilities question why ORA asks for this time extension in this proceeding, rather than in one of the other regulatory matters, such as the GRCs, to which it is a party. If the requested suspension is granted, customer rates predicated on conditions forecasted for 2002 will remain in effect through most of 2004. SoCalGas and SDG&E question whether such rates are just and reasonable, and whether such rates reflect appropriate allocations of cost given the changes in the gas and electric markets.

Reply

In its reply, ORA addresses the issues raised by the utilities, SCGC, and Watson, the only parties opposing the motion. To begin, ORA notes that a BCAP

has no impact on the overall base revenue requirement—that is addressed in a utility general rate cases. And it is the number of GRCs, two major and two smaller energy utilities, proceeding simultaneously that is straining ORA's staffing.

ORA concedes that it has already requested alterations to the procedural schedule, but indicates that all such requests were based on a good faith estimate of ORA's staffing requirements at the time a revised schedule was proposed. Circumstances, such as the issuance of D.01-12-018, have continued to occur that have forced ORA to reconsider the schedule in the BCAP proceedings.

ORA also responds to the suggestion by SoCalGas that ORA should seek the suspension of some other regulatory proceeding other than the BCAPs. ORA notes that the BCAPs, unlike the GRCs, do not impact the utilities revenue requirement and the balancing accounts provide the utilities with significant protection. Even in light of the importance of the GRCs and the fact that it has been several years since the last GRC for many of the energy companies, because of its staffing constraints, ORA did file to defer the GRC.¹

Furthermore, ORA challenges SoCalGas' claim that it needs 100% balancing account protection since the current level of balancing account protection adequately protects the utility from the risks associated with throughput variation. ORA does agree with SoCalGas that there is tremendous uncertainty associated with forecasting electric generator throughput, but ORA contends that retaining the existing forecast and 75/25 balancing account

¹ To date there has been no action on that motion filed by ORA on December 26, 2001, in A.01-03-026, PacifiCorp's GRC.

protection for noncore revenue risk provides a sufficient amount of protection for both ratepayers and shareholders.

Finally, ORA opposes SoCalGas' suggestion that a six-month delay should be sufficient. ORA claims because of the uncertainty in the processing of the other on-going proceedings, that the full requested 12-month delay is the minimum needed by ORA to address its staffing constraints.

Discussion

The Commission is aware of the work SoCalGas and SDG&E did in preparing the three applications, with supporting testimony and documentation, that have already been filed in this BCAP proceeding, and is also aware that a 12-month extension will moot all of that work. Basically, shifting the proceeding for a year will necessitate that both utilities prepare yet another revised application.

The Commission is also concerned that customer rates will not be adjusted until at least 2004, if not later, and the current rates will not accurately reflect the cost of service. Also, parties will not have an opportunity to advance new policies that would reflect recent changes in the gas and electric markets. As it is, if the current procedural schedule is adhered to, the earliest the Commission would issue a decision is 2003. This already thwarts the Commission's historic trend of conducting BCAPs every two years to ensure that each customer class pays gas transportation rates that reasonably reflect the costs to serve those customer classes for that time period. ORA's requested delay obviously exacerbates that time lag between customer rates and cost of service.

However, even given the problems discussed above, the Commission does rely heavily on the analysis and scrutiny that ORA provides in the BCAP proceedings to develop a complete record. If the requested time extension is not

granted, and ORA is forced to proceed, it may only be able to provide a cursory analysis, and not the thorough perusal, of the throughout forecasts, cost allocation, and rates, that the record needs.

Therefore, the Commission reluctantly grants the requested 12-month extension and shifts all of the dates adopted for the procedural schedule, by one day, to adhere to the same schedule. However, this will be the final extension request allowed from ORA.

We do want to ensure, to the extent possible, that this delay does not harm other parties. SoCalGas has requested that if the extension is granted, that we modify the 75/25 (ratepayer/shareholder) balancing of noncore throughput revenue risk. We will not do so in this ruling, but will address it in a subsequent proposed decision in this proceeding.

SDG&E asks that if ORA's 12-month extension is granted, that SDG&E's costs related to the expansion of Line 6900 be addressed. The ratemaking for Line 6900 is covered in I. 00-11-002, the "Gas Capacity OII." The Commission is optimistic that a decision will be forthcoming in that proceeding.

IT IS RULED that good cause having been found, the motion of Office of Ratepayer Advocates to suspend the procedural schedule and defer the Biennial Cost Allocation Proceedings (BCAP) for a period of 12 month is granted. If the Commission does not ask the utilities to withdraw their respective BCAP applications, Southern California Gas Company and San Diego Gas & Electric are to file updated applications in the current proceedings on March 7 and March 17, 2003, respectively.

Dated April 23, 2002, at San Francisco, California.

/s/ Carol Brown
Carol Brown
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Motion of The Office of Ratepayer Advocates Motion to Defer the BCAP Proceedings for 12 months on all parties of record in this proceeding or their attorneys of record.

Dated April 23, 2002, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

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